

Representative Gregory H. Hughes proposes the following substitute bill:

SEX OFFENDER RESTRICTIONS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill modifies the Code of Criminal Procedure to limit where persons may be if they are sex offenders against children and defines these restricted areas and places.

Highlighted Provisions:

This bill:

- ▶ increases the penalties for lewdness offenses committed by a sex offender; and
- ▶ restricts locations where offenders convicted of specified sex offenses may be, with certain exceptions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-9-702, as last amended by Chapter 325, Laws of Utah 2003

76-9-702.5, as last amended by Chapter 325, Laws of Utah 2003

ENACTS:

77-27-21.7, Utah Code Annotated 1953



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-9-702** is amended to read:

76-9-702. Lewdness -- Sexual battery -- Public urination.

(1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years of age or older:

(a) an act of sexual intercourse or sodomy;

(b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;

(c) masturbates; or

(d) any other act of lewdness.

(2) (a) Lewdness is a class B misdemeanor.

(b) Lewdness is a class A misdemeanor if the person is a sex offender as defined in Section 77-27-21.7.

(3) A person is guilty of sexual battery if the person under circumstances not amounting to rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child, aggravated sexual assault, or an attempt to commit any of these offenses intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the person touched.

(4) Sexual battery is a class A misdemeanor.

(5) A person is guilty of public urination if the person urinates or defecates:

(a) in a public place, other than a public rest room; and

(b) under circumstances which the person should know will likely cause affront or alarm to another.

(6) Public urination is a class C misdemeanor.

(7) A woman's breast feeding, including breast feeding in any location where the

57 woman otherwise may rightfully be, does not under any circumstance constitute a lewd or
58 grossly lewd act, irrespective of whether or not the breast is covered during or incidental to
59 feeding.

60 Section 2. Section **76-9-702.5** is amended to read:

61 **76-9-702.5. Lewdness involving a child.**

62 (1) A person is guilty of lewdness involving a child if the person under circumstances
63 not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a
64 child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses,
65 intentionally or knowingly does any of the following to, or in the presence of a child who is
66 under 14 years of age:

67 (a) performs an act of sexual intercourse or sodomy;

68 (b) exposes his or her genitals, the female breast below the top of the areola, the
69 buttocks, the anus, or the pubic area:

70 (i) in a public place; or

71 (ii) in a private place:

72 (A) under circumstances the person should know will likely cause affront or alarm; or

73 (B) with the intent to arouse or gratify the sexual desire of the actor or the child;

74 (c) masturbates;

75 (d) under circumstances not amounting to sexual exploitation of a child under Section
76 76-5a-3, causes a child under the age of 14 years to expose his or her genitals, anus, or breast,
77 if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the
78 child; or

79 (e) performs any other act of lewdness.

80 (2) (a) Lewdness involving a child is a class A misdemeanor, except under Subsection
81 (2)(b).

82 (b) Lewdness involving a child is a third degree felony if the person is a sex offender as
83 defined in Section 77-27-21.7.

84 Section 3. Section **77-27-21.7** is enacted to read:

85 **77-27-21.7. Sex Offender Restrictions.**

86 (1) As used in this section:

87 (a) "Protected area" means the premises of:

88 (i) any licensed day care or preschool facility;
89 (ii) a swimming pool that is open to the public;
90 (iii) a public or private primary or secondary school that is not on the grounds of a
91 correctional facility;

92 (iv) a trade school in which persons younger than 18 years of age enroll, and that is not
93 on the grounds of a correctional facility;

94 (v) a community park that is open to the public; and

95 (vi) a playground that is open to the public, including those areas designed to provide
96 children space, recreational equipment, or other amenities intended to allow children to engage
97 in physical activity.

98 (b) "Sex offender" means an adult or juvenile under Subsection 77-27-21.5(2)(f) due to
99 a conviction for any offense listed under Subsection 77-27-21.5(1)(f) that is committed against
100 a person younger than 18 years of age.

101 (2) It is a class A misdemeanor for any sex offender to be in any protected area on foot
102 or in or on any vehicle, including vehicles that are not motorized, except for those specific
103 periods of time when the sex offender must be present within a protected area in order to carry
104 out necessary parental responsibilities.

H.B. 375 1st Sub. (Buff) - Sex Offender Restrictions

Fiscal Note

2007 General Session
State of Utah

State Impact

Enactment of this bill will require an additional ongoing appropriation of \$23,600 from the General Fund to the Department of Corrections due to an estimated increase of offenses resulting from provisions in this bill.

	<u>FY 2007 Approp.</u>	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2007 Revenue</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>
General Fund	\$0	\$23,600	\$23,600	\$0	\$0	\$0
Total	\$0	\$23,600	\$23,600	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.